IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 21180 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ST WORKS CO-OP CREDIT SOCIETY LTD - Petitioner(s)
Versus
GUJARAT STATE TRANSPORT CORPN & 1 - Respondent(s)

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Appearance :
MR ASPI M KAPADIA for Petitioner(s) : 1,
MS SEJAL K MANDAVIA for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 29/06/2006

ORAL JUDGMENT

1. Rule. Learned advocate Ms. Sejal Mandavia waives service of notice of rule on behalf of respondents. At the joint request of the learned

advocates appearing for the parties, the petition is taken up for final disposal today.

2. It is rather unfortunate that the employees of the State Road Transport Corporation have to approach this Court to realise their dues from the Corporation. Though there is broad consensus between the parties in the manner in which this petition can be disposed of, I find myself compelled to notice the background facts leading to this petition.

3. The petitioner is a S.T. Workers Cooperative Credit Society. Through collection of small contributions from members who are employees of the State Road Transport Corporation, the petitioner had created a corpus and was giving loans to its members by charging interest thereon. The loans would be paid up through installments agreed upon between the parties. S.T. Corporation as an employer was entrusted with the task of recovering such installments from the salaries of the employees and to

deposit the same with the petitioner. It is the case of the petitioner that the respondents though collected substantial amounts through cut in the salaries of the employees for the purpose of repayment of their loans, but did not deposit such amounts with the petitioner and utilised the same for its own purpose. Gradually, such unaccounted recoveries came to Rs. 98 lakhs and odd. The petitioner thereupon requested S.T. Corporation not to effect any more cut in the salaries of the employees.

4. With respect to the averments made in the petition, there is hardly any dispute. It is virtually admitted that S.T. Corporation had utilised the funds so collected from the salaries of the employees for its own purpose. Learned advocate Ms. Mandavia for the respondents submitted that due to acute financial crisis, respondents could not deposit the amount with the petitioner-society.

5. It is extremely unfortunate and unacceptable to

the Court that an employer which is a State Corporation collects the funds from the salaries of the employees for the purpose of repayment of loans but defaults in depositing the same with the Cooperative Society formed by the employees. Through small contributions, the employees had created a corpus which in turn would permit them to avail of small loans to be repaid directly from their salary. The employer was entrusted with simple task of affecting periodical cut in the salaries of the borrowing employees and to deposit the same with the society. No matter what was the seriousness of financial crisis, respondents had no claim over the money even temporarily. Under no circumstances, such amounts collected from the employees could have been utilised for any purpose other than for depositing with the society for repayment of loan of individual employees. On one hand employees would suffer cut in the salary and on the other hand, his outstanding loan account would remain unchanged. The society would lose the principal and interest thereon. The steps

taken by the Corporation are deprecated. It is expected that such occurrence will not be repeated. Learned advocate Ms. Mandavia submitted that the respondents have issued a cheque of Rs. 10 lakhs in June 2006. She conveyed to the Court that Corporation will be paying an amount of Rs.10 lakhs every month till the entire debt with interest as may be directed by the Court is cleared.

6. Under the circumstances, it is directed that the respondents shall pay to the petitioner the entire principal sum of Rs. 98,36,402/- with 10% simple interest from the date it became due and payable till its actual payment by paying Rs. 10 lakhs per month till the entire debt is cleared with interest as directed above. The amount of Rs.10 lakhs paid in June 2006 will be given credit to.

7. With these directions the petition is disposed of with cost of Rs.5,000/-(Rupees Five Thousand only).

(Akil Kureshi,J.)

(raghu)